THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.11368 of 2006

10.4.2007

Between:

Dunaboina China Satyam, S/o.Venkanna

… Petitioner

AND

SriMutyalammavari Devasthanam, T.Kothapalli,
I.Polavaram Mandal, East Godavari District
And others

… Respondents

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ORDER:

The petitioner is aggrieved by the action of the first respondent in proposing to auction the leasehold rights of the land admeasuring Acs.0.64 in R.S.No.437/2 situated at T.Kothapalli village of I.Polavaram Mandal in East Godavari District. It is the case of the petitioner that he is in occupation of the said land as tenant and that the land belongs to the first respondent. The land was given for Archakas to perform regular pooja and that he was inducted as tenant by the Archakas in 1978. On 06.6.2006 the officials of first respondent announced in the village by beat of tom-tom that the leasehold rights of the land would be auctioned on 09.6.2006. Aggrieved by the same, the present writ petition is filed.

In the counter affidavit filed by the third respondent herein, it is stated that the land admeasuring Acs.Acs.5.77 in survey Nos.438/2, 375/2, 273/1, 301/6 and 437/2 belongs to the first respondent temple. An extent of Acs.3.00 in survey No.273/1, 301/6 and 437/2 was in possession of Archakas/Asadies towards rendering Archaka services, by reason of a compromise order No.100/1979, dated 05.3.1979 in ACS No.1402/76 of the Commissioner of Endowments, Hyderabad. The petitioner herein was inducted as sub-tenant for an extent of Acs.0.64 and that he is not paying the rent. Therefore, it is proposed to conduct auction on 16.6.2006. Archakas also agreed for the same.

The counter affidavit nowhere denies that the petitioner was evicted in due process of law, though the counter indeed admits that the petitioner is a tenant for an extent of Acs.0.64 in R.S.No.437/2. In such an event, unless and until the respondents 1 and 2 take necessary action under Section 83 of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (the Act, for brevity)

and evict the petitioner by following the procedure contemplated thereunder, he cannot be evicted. However, insofar as the other extents of land, which are in possession of Archakas is concerned, there cannot be any objection for conducting auction of leasehold rights. Before conducting auction, respondents 1 and 2 have to necessarily evict the petitioner by following due process of law under Section 83 of the Act.

The writ petition, with the above observation, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

April 10, 2007.
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